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June 3, 1994

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

Re: Implementation of Section 309(j) of the
Communications Act - PP Docket No. 93-253

Dear Mr. Caton:

Transmitted herewith on behalf of Telephone and Data Systems, Inc. are an original and eleven copies of its Petition for Reconsideration of the Commission's final action adopted in its Second Report and Order in the above-referenced proceeding.

In the event that there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,


George Y. Wheeler

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUN - 3 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Implementation of Section 309(j))
of the Communications Act) PP Docket No. 93-253
)
Competitive Bidding)
)
TO: The Commission

**PETITION FOR RECONSIDERATION OF
TELEPHONE AND DATA SYSTEMS, INC.**

George Y. Wheeler
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June 3, 1994

Its Counsel

TABLE OF CONTENTS

SUMMARY.	i
INTRODUCTION	1
DISCUSSION	4
1. The Commission Should Reevaluate its Qualification Standards for Rural Telephone Companies to Bid as Designated Entities in Consideration of the Different Circumstances Prevailing in Rural and Urban America.	4
2. The Commission Should Adopt Expanded Eligibility for Rural Telephone Company Status Based Upon Congressional Findings Supporting Rural Telecommunication Develop- ment	6
3. The Practical Benefits in Terms of the kind of Broadbased Participatory Consortium Model Proposed Here Reflect the Strong Public Interest Supporting the Objectives of the Budget Act.	9
CONCLUSION	10

SUMMARY

Telephone and Data Systems, Inc. is requesting modification of Section 1.2110(b)(3) of the Commission's rules to expand eligibility to participate in "rural telephone company" bidding consortia. This is needed to promote the rapid, universal, cost-effective deployment of new and innovative services and technologies in rural America consistent with established Commission policy and its legislative mandate under the Omnibus Budget Reconciliation Act of 1993.

Specifically, the Commission is requested to make the following modifications in Section 1.2110(b)(3) of its rules: (a) eliminate the 50,000 LEC access line limit upon consortia applying as "rural telephone companies;" (b) adopt an alternative qualifications test for companies directly or through affiliates with more than 50,000 LEC access lines to participate in "rural telephone company consortia -- i.e. each such company must demonstrate that more than 50% of its LEC access lines company-wide (including all affiliates) and also in the proposed license service area serve only communities with 10,000 or fewer inhabitants; and (c) require that all rural telephone companies in such consortia with 50,000 LEC access lines or fewer have the right to hold up to 60% of the equity in such consortium.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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TO: The Commission

**PETITION FOR RECONSIDERATION OF
TELEPHONE AND DATA SYSTEMS, INC.**

Telephone and Data Systems, Inc., on behalf of itself and its subsidiaries (collectively "TDS"), by its attorneys, requests partial reconsideration pursuant to Section 1.429 of the Commission's rules of the final action adopted in the Commission's Second Report and Order in the above-captioned proceeding. We address here the Commission's rules as they affect participation in "rural telephone company" consortia qualifying for bidding preferences.

INTRODUCTION

In our comments and reply comments in this and other related proceedings, we have argued for the adoption of bidding preferences for rural telephone companies to promote access to new and innovative technologies to meet their responsibilities both in terms of cost-effective provision of existing services and the earliest possible universal deployment of new and innovative

service offerings. Nowhere is this more important than in rural America where the deployment of the newest and most advanced technologies has the greatest potential to promote safety of life and property, expanded coverage in unserved areas, cost-effective service offerings and economic activity and jobs.

We have previously documented in our Reply Comments the commitment of TDS to rural service which dates back to the founding of the company in 1969. We currently operate 96 small telephone companies serving hundreds of rural communities in 28 states. Attached is a list of the TDS companies and the communities served by each as of October 31, 1993. Because of its presence and record of service in rural areas, TDS has been approached by other rural telephone companies with requests to participate in bidding consortia which TDS is unable to pursue under the Commission's current rules. The modifications of Section 1.2110(b)(3) of the Commission's rules which we request are needed if these tangible and realistic arrangements to promote rural service have any chance of being implemented.

We request that the Commission reassess its eligibility policies restricting participation in consortia qualifying for bidding preferences as "rural telephone companies." Specifically, the Commission should modify Section 1.2110(b)(3) of its rules to expand eligibility to participate in rural telephone company consortia as follows: (a) eliminate the 50,000 LEC access line limit upon consortia applying as "rural telephone companies," (b) adopt an alternative qualifications test for

companies directly or through affiliates with more than 50,000 LEC access lines to participate in such consortia provided they demonstrate that more than 50% of their access lines company-wide (including all affiliates) and also in the proposed license service area serve only communities with 10,000 or fewer inhabitants, and (c) require that the rural telephone companies in such consortia with 50,000 LEC access lines or fewer have the right to hold up to 60% of the equity in such consortia. The Commission should also condition each license granted to any such consortium so that if any company qualifying under our proposed alternative standard holds more than 40% of the equity of the consortium, it must offer at cost to the other members of the consortium (i.e. those with 50,000 LEC access lines or fewer) and to any other rural telephone companies in the license service area with 50,000 LEC access lines or fewer who might want to join the consortium, all or a prorata portion of its equity interest exceeding 40% during an appropriate period after initial licensing.

DISCUSSION

1. The Commission Should Reevaluate its Qualification Standards for Rural Telephone Companies to Bid as Designated Entities in Consideration of the Different Circumstances Prevailing in Rural and Urban America.
-

We strongly support reevaluation of the Commission's standards for rural telephone companies to qualify as designated entities in bidding consortia.

The expanded eligibility requested here is intended to create strong incentives to develop services for substantially more rural residents than just those served by companies which can currently qualify under the Commission's rules. We believe the Commission's current rule in practice will be counter-productive to the deployment of new technologies throughout rural America by excluding from "rural telephone" status numerous companies like TDS and others who serve substantial numbers of rural residents. We expect that the rural telephone companies qualifying under the Commission's current rules individually or as members of consortia will represent only a small part of the entire rural telephone industry serving communities with 10,000 or fewer inhabitants in any particular license service area. We expect that they will face substantial, perhaps in some cases unsupportable, burdens to deliver rapid, universal, affordable deployment of new technologies throughout all "rural" areas encompassed by their license. We believe that instead the Commission should encourage the use of consortia so that a broad

range of rural telephone companies can draw upon their combined knowledge of local needs, ability to deploy new technologies cost-effectively using established infrastructure, broadbased financial resources, and longstanding commitments to local service.

Our preliminary research regarding rural telephone service in the State of Wisconsin illustrates the foregoing concerns. On a statewide basis, the companies which theoretically could qualify as "rural telephone companies" under the Commission's current rule serve less than 30% of the total population of Wisconsin communities with 10,000 or fewer inhabitants. Stated differently, this means that on average across all BTAs in Wisconsin companies serving more than 70% of its rural residents are excluded from participating individually or in "rural telephone" consortia. This result can hardly be deemed compatible with reasonable expectations for rapid, universal, and cost-effective deployment of new technologies in these rural areas.

The Commission needs to reaffirm that expanding availability of new technologies in rural America is a high priority. Unlike urban America, there are still pressing needs for development of the basic and enhanced telecommunications infrastructure (1) to be a catalyst for rural economic development (2) to address the special problems of rural economies including geographic isolation and overdependence upon declining or slow growth

industries, and (3) to yield economic and social benefits to industry, government and the public at large in rural areas.

Unlike urban areas where the Commission reasonably can expect numerous and diverse providers of PCS-based services to emerge, the experience in rural areas has been that the rural telephone companies based in such areas are the first and, in some areas, the only providers to deploy new technologies. This occurs because they have established technical, financial, managerial and other qualifications not shared by some other applicants. They also are in a position to deploy systems more cost-effectively based upon economies of scope.

The overriding public policy concern should be on promotion of the earliest possible deployment of advanced services in rural areas where such services can have a meaningful impact. By restrictively defining rural telephone companies for the purposes of bid preferences, the Commission has substantially diminished the opportunities and the incentives for early deployment of new technologies throughout rural America.

2. The Commission Should Adopt Expanded Eligibility for Rural Telephone Company Status Based Upon Congressional Findings Supporting Rural Telecommunication Development.

We believe that the Commission adoption of expanded eligibility for rural telephone companies to participate in consortia is supported by Congressional findings made in connection with Omnibus Budget Reconciliation Act of 1993 ("Budget Act").

There are numerous references in the Budget Act to the need for the Commission to adopt policies promoting rural telecommunications development. Amended Section 309(j)(3) of the Communications Act of 1934, as amended, states:

"In identifying classes of licenses and permits to be issued by competitive bidding, in specifying eligibility and other characteristics of such licenses and permits..., the Commission shall include safeguards to protect the public interest...and shall seek to promote...the development and rapid deployment of new technologies, products and services for the benefit of the public, including those residing in rural areas..."¹

The foregoing statute also addresses specific Congressional findings which, as explained in the Conference Report on Section 6002 of the Budget Act, were omitted from the statutory text and incorporated by reference in that Conference Report from the language of Section 4002 of the Senate Amendment:

"...(10) competitive bidding should be structured to--
...(B) recognize the legitimate needs of rural telephone companies in providing spectrum-based, common carrier services in rural markets in which they provide telephone exchange service by wire;"

Other objectives of the competitive bidding statute point to the special role of local exchange carriers in developing rural services and rapidly deploying new technologies, products and services benefiting the public residing in rural areas (Section 309(j)(3)(A) of the Act).

We believe that the foregoing objectives are fundamental to the overall design of the legislation. Congress did not legislate

¹ Section 309(j)(3) of the Communications Act.

that only rural telephone companies under a certain size would be considered for bid preferences. The "small business" provisions of the legislation were not an attempt by Congress to limit rural telephone company eligibility for bidding preferences. We agree that the achievement of Congress's objectives possibly could be undercut if a few large companies bidding individually on licenses using bid credits won spectrum auctions thereby precluding other rural telephone companies from obtaining access to needed spectrum. But the Commission should also recognize that Congressional objectives will not be met if the incentives created by bid preferences only extend to companies serving a very limited number of rural residents.

Our proposal takes a middle course in an attempt to meet the spirit as well as the letter of the Budget Act. Companies like TDS which are primarily oriented to rural service should be permitted to participate in consortia because the service they can provide will be important to the welfare of the communities they serve. The substantial participation of small companies holding as much as 60% ownership interest will preserve the broadbased "rural" character of the preference category intended by Congress.

3. The Practical Benefits in Terms of the kind of Broadbased Participatory Consortium Model Proposed Here Reflect the Strong Public Interest Supporting the Objectives of the Budget Act.

Companies like TDS have developed extensive expertise operating numerous rural telephone properties. TDS has successfully built and/or developed 96 independent telephone companies serving rural areas in 28 states. In excess of 90% of its more than 350,000 total access lines are in communities with 10,000 or fewer population. The fragile economics of rural service depend to a great degree on this unique expertise, the ability of existing rural telephone companies to take advantage of their established infrastructure and the availability of government programs and policies which support essential rural service.

Companies like TDS should be encouraged to participate with the other members of the rural telephone industry so that all rural communities within a particular license area can be served as quickly and cost effectively as possible. Broad participation takes maximum advantage of the established infrastructure of all members of the consortium and will help attract capital to make possible the substantial facilities development required for these technologies. The participation of additional significantly experienced members of the rural telephone industry already serving rural areas will hasten deployment, selection of cost-effective technologies, and early widespread coverage.

CONCLUSION

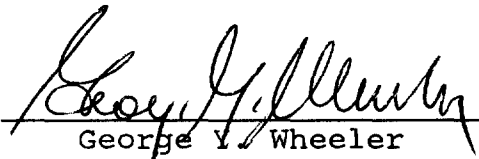
As a company committed to rural service, we are deeply concerned that we may be prohibited from participating in the rural telephone bidding consortia which logically and realistically provide significant opportunities for early deployment of high quality service at affordable rates to the hundreds of thousands of rural residents in our service areas. The attached list of the communities served by TDS demonstrates in specific terms where the Commission's choice to grant our petition will potentially affect the timing, cost and quality of the new technology offerings to this important part of rural America. It would be a disservice to the residents of rural America for the Commission to conclude that companies like TDS should not be permitted to participate in rural telephone company consortia to obtain spectrum rights to serve areas currently served by its rural telephone companies. It is clear that the most expeditious, cost-effective and beneficial deployment of new technologies in rural America will be accomplished through joint efforts within the rural telephone industry.

We believe that a limited expansion of the qualification standards as proposed here, encouraging development of bidding consortia made up of rural telephone companies, is a realistic blending of Congressional and Commission policy objectives. It promotes widespread, cost-effective and early availability of new

and innovative technologies (by expanding opportunities to participate in "rural telephone company" consortia) preserves appropriate opportunities for small rural telephone companies (through the equity features of our proposal).

Respectfully submitted,

**TELEPHONE AND DATA SYSTEMS,
INC.**

By 
George Y. Wheeler

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1150 Connecticut Avenue, N.W.
Suite 1000
Washington, D.C. 20036
(202) 467-5700

June 3, 1994

Its Counsel

Communities Served by TDS TELECOM (As of 10/31/93)

Central Region

<u>Mid-Central Division</u>	<u>Access Lines</u>	<u>Communities Served</u>
Arcadia Tel. Co. (OH)	718	Arcadia
Chatham Tel. Co. (MI)	2,531	Au Train, Chatham, Sand River, Skandia, Trenary
CCI (IN)	8,432	Clayton, Fillmore, New Ross, Roachdale, Whitestown, Wickliffe, Bainbridge
CCM (MI)	3,803	Augusta, Clayton, Hickory Corners
CCSI (IN)	1,819	Elnora, Poseyville, Wadesville
Continental Tel. Co. (OH)	2,081	Continental, Grover Hill, Miller City
Home Tel. - Pittsboro (IN)	1,759	Pittsboro
Home Tel. - Waldron (IN)	2,001	Waldron, Blue Ridge, Geneva, St. Paul
Island Tel. Co. (MI)	869	Bois Blanc, Beaver Island
Little Miami Comm. Corp. (OH)	2,207	Butlerville, Fayetteville
Oakwood Tel. Co. (OH)	1,073	Oakwood
Shiawassee Tel. Co. (MI)	4,625	Bell Oak, Perry, Shaftsburg, Morrice
Wolverine Tel. Co. (MI)	8,016	Fostoria, Millington, Munger, Sanford

Communities Served by TDS TELECOM (As of 10/31/93)

Central Region Continued

<u>Mid-West Division</u>	<u>Access Lines</u>	<u>Communities Served</u>
Badger Telecom, Inc. (WI)	5,962	Chili, Granton, Greenwood, Neillsville, Willard
Black Earth Tel. Co. (WI)	1,252	Black Earth
Bonduel Tel. Co. (WI)	1,621	Bonduel, Navarino, Zachow
BB&W Tel. Co. (WI)	3,128	Bohners Lake, Wheatland
Central State Tel. Co. (WI)	8,516	Auburndale, Junction City, Necedah, Pittsville, Vesper, Lindsey
Danube Tel. Co. (MN)	444	Danube
Eastcoast Telecom, Inc. (WI)	5,410	Cleveland, Collins, Howards Grove, St. Nazianz, Valders, Meene, Osman, School Hill, Spring Valley, Ada, Cato, Clarks Mills, Edwards, Franklin, Haven
Grantland Telecom, Inc. (WI)	3,573	Bagley, Bloomington, Fennimore, Mt. Hope, Woodman
KMP Tel. Co. (MN)	1,525	Kerkhoven, Murdock, Pennock
Mid-State Tel. Co. (MN)	6,267	Brooten, Howick, New London - MN, Sedan, Spicer, Sunburg, Terrace
Midway Tel. Co. (WI)	7,068	Dorchester, Medford, Perkinstown, Stetsonville
Mt. Vernon Tel. Co. (WI)	6,936	Mr. Vernon, New Glarus, Verona
Riverside Telecom, Inc. (WI)	2,592	Johnson Creek -(incl. - Grellton, Helenville & Farmington), Reeseville, Lowell
Scandinavia Tel. Co. (WI)	2,290	Iola, Scandinavia
S&S Tel. Co. (WI)	2,588	Forest Junction, Sherwood, Stockbridge, Tisch Mills
Tenney Tel. Co. (WI)	929	Alma
Waunakee Tel. Co. (WI)	5,056	Waunakee, Dane

Communities Served by TDS TELECOM (As of 10/31/93)

Central Region Continued

<u>Western Division</u>	<u>Access Lines</u>
Arizona Tel. Co. (AZ)	2,784
Asotin Tel. Co. (WA)	1,130
Cleveland County Tel. Co. (AR)	2,791
Decatur Tel. Co. (AR)	1,141
Delta County Tele-Comm (CO)	7,184
Happy Valley Tel. Co. (CA)	2,957
Home Tel. Co. - Condon (OR)	619
Hornitos Tel. Co. (CA)	542
Lake Livingston Tel. Co. (TX)	1,062
Mid-America Tel. Co. (OK)	1,534
New London Tel. Co. (MO)	838
OCSI, Inc (OK)	15,016
Orchard Farm Tel. Co. (MO)	588
Potlatch Tel. Co. (ID)	916
Stoutland Tel. Co. (MO)	1,095
Strasburg Tel. Co. (CO)	940
Troy Tel. Co. (ID)	779
Winterhaven Tel. Co. (CA)	1,257
Wyandotte Tel. Co. (OK)	560

Communities Served

Blue Ridge, Greenehaven, Harquahala, Hyder, Marble Canyon, Morman Lake, Roosevelt, Sasabe, Supai, Tonto Basin
 Anatone, Asotin, Flora-Troy
 Kingsland, Rison, Rowell
 Decatur
 Cedaredge, Crawford, Eckert, Hotchkiss, Paonia, Somerset, Bowie, Lazear, Orchard City, Cory, Austin, Maher
 Igo, Minersville, Olinda, Platina, Trinity Center
 Condon
 Catheys Valley, Exchequer, Hornitos, Mt. Bullion
 Memorial Point
 Bromide, Fittstown, Hennepin, Stonewall
 New London
 Adair, Choctaw, Cyril, Elgin, Fletcher, Gracemont, Inola, Jones, Kellyville, Mounds, Union City, Verden
 Orchard Farm
 Juliaetta, Kendrick
 Eldridge, Stoutland
 Strasburg
 Troy
 Winterhaven, Felicity, Bard
 Wyandotte

Communities Served by TDS TELECOM (As of 10/31/93)

<u>Southeast Region</u>	<u>Access Lines</u>	<u>Communities Served</u>
Amelia Tel. Co. (VA)	3,863	Amelia Court House, Jetersville
Barnardsville Tel. Co. (NC)	1,076	Barnardsville
Blue Ridge Tel. Co. (KY)	7,491	Blue Ridge, Dial, Lakewood, Mineral Bluff, Morganton
Butler Tel. Co. (AL)	4,352	Butler, Lisman, Needham, Pennington
Camden Tel. Co. (GA)	14,926	St. Mary's, Kingsland, Woodbine, Kings Bay
Calhoun City Tel. Co. (MS)	3,497	Calhoun City, Slate Springs, Vardaman
Concord Tel. Co. (TN)	14,545	Concord, Farragut
Goshen Tel. Co. (AL)	742	Goshen
Grove Hill Tel. Co. (AL)	2,007	Grove Hill
Humphreys County Tel. (TN)	1,440	New Johnsonville
Leslie County Tel. Co. (KY)	7,065	Bledsoe, Buckhorn, Canoe, Dwarf, Hyden, Stinnett, Wooten
Lewisport Tel. Co. (KY)	1,135	Lewisport
McClellanville Tel. Co. (SC)	1,339	Awendaw, McClellanville
New Castle Tel. Co. (VA)	1,816	New Castle, Paint Bank
Norway Tel. Co. (SC)	645	Norway
Oakman Tel. Co. (AL)	2,248	Flatwood, Lynn, Nauvoo, Oakman
Peoples Tel. Co. (AL)	12,452	Aroney, Cedar Bluff, Centre, Collinsville, Crossville, Gaylesville, Grayson, Leesburg, Rinehart, Sandrocks, Whorton
Quincy Tel. Co. (FL)	11,596	Attapulgas (GA), Greensboro, Gretna, Quincy
Salem Tel. Co. (KY)	1,813	Salem
Saluda Mt. Tel. Co. (NC)	1,382	Saluda
Service Tel. Co. (NC)	1,033	Fair Bluff
SE Mississippi Tel. Co. (MS)	2,997	Leakesville, Neely, Sandhill, State Line
St. Stephen Tel. Co. (SC)	4,215	Bonneau, Pineville, St. Stephen
Tellico Tel. Co. (TN)	6,386	Ball Play, Coker Creek, Englewood, Niota, Riceville, Tellico Plains, Vonore
Tennessee Tel. Co. (TN)	43,769	Bruceton, Clifton, Collinwood, Cornersville, Darden, Decaturville, Halls Cross Roads, LaVergne, Mt. Juliet, Parsons, Sardis, Scotts Hill, Waynesboro, Hollow Rock
Virginia Tel. Co. (VA)	1,911	Hot Springs, Warm Springs, Healing Springs
Williston Tel. Co. (SC)	4,258	North, Williston

Communities Served by TDS TELECOM (As of 10/31/93)

<u>Northeast Region</u>	<u>Access Lines</u>	<u>Communities Served</u>
Chichester Tel. Co. (NH)	1,290	Chichester
Edwards Tel. Co. (NY)	1,912	Edwards, Hermon, Dekalb
Hartland & St. Albans (ME)	3,095	Harmony, Hartland, West Ripley
Kearsarge Telephone Co. (NH)	5,669	Andover, Boscawen, New London, Salisbury
Ludlow Telephone Co. (VT)	4,008	Ludlow, Proctorsville, Cavendish
M & M Telephone Co. (PA)	3,644	Mandata, Trevorton
Meriden Telephone Co. (NH)	471	Meriden
Northfield Telephone Co. (VT)	2,960	Northfield, Roxbury
Oriskany Falls Tel. Co. (NY)	727	Oriskany Falls
Perkinsville tel. Co. (VT)	810	Weathersfield, Baltimore
Port Byron Tel. Co. (NY)	3,101	Port Byron, Savannah
Somerset Tel. Co. (ME)	10,285	Athens, Bigelow, Carrabassett, Corburn Gore, Embden Lake, Kingfield, Mercer, New Vineyard, Norridgewock, North Anson, North New Portland, Phillips, Rome, Salem, Smithfield, Solon, Stratton, Strong, Weld
Sugar Valley Tel. Co. (PA)	1,001	Loganton
The Island Tel. Co. (ME)	578	Frenchboro, Isle Au Haut, Minturn, Atlantic, Matinicus, Swans Island
Warren Tel. Co. (ME)	1,614	Warren
West Penobscot (ME)	1,995	Corinna, Exeter, Stetson